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Practitioner's Docket No. 51473

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gallagher et al.

Serial No.: 10/661,051

Group No.: 1765

Filed: September 13, 2003

Examiner: Kin Chan Chen

For: AIR GAP FORMATION

**Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

**RESPONSE UNDER
37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP
1765**

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AMENDMENT OR RESPONSE AFTER FINAL REJECTION—TRANSMITTAL

CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10*

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37 C.F.R. 1.8(a)

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"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition."
Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

1. Transmitted herewith is an amendment after final rejection (37 C.F.R. 1.116) for this application.

NOTE: Response to Final Rejection—Avoiding Extension Fees "In patent applications wherein a three month Shortened Statutory Period (SSP) is set for response to a Final Rejection, the response would best be filed within two months of the date of the Office Action. If filed within two months, any Advisory Action mailed after the SSP expires will reset the SSP to expire on the date of the Advisory Action for extension fee purposes, but never more than six months from the date of the Final Rejection." Notice of Nov. 30, 1990 (1122 O.G. 571 to 591).

STATUS

2. Applicant is
☐ a small entity. A statement:
☐ is attached.
☐ was already filed.
☒ other than a small entity.

EXTENSION OF TERM

NOTE: As to a Supplemental Amendment filed in response to a final office action, the Notice of December 10, 1985 (1061 O.G. 34-35) states:

"If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run."

3. (complete (a) or (b), as applicable)

- (a) ☐ Applicant petitions for an extension of time under 37 C.F.R. 1.136
(fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

| | Extension (months) | Fee for other than small entity | Fee for small entity |
|--------------------------|-----------------------|------------------------------------|-------------------------|
| <input type="checkbox"/> | one month | \$ 120.00 | \$ 60.00 |
| <input type="checkbox"/> | two months | \$ 450.00 | \$225.00 |
| <input type="checkbox"/> | three months | \$1,020.00 | \$510.00 |
| <input type="checkbox"/> | four months | \$1,590.00 | \$795.00 |

Fee: \$ _____

If additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for _____ months has already been secured and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

| (Col. 1) (Col. 2) (Col. 3) SMALL ENTITY | | | | | OTHER THAN A SMALL ENTITY | | | |
|---|---------|---------------------------------|---------------|--------------|---------------------------|----|------------------|------------|
| Claims Remaining After Amendment | | Highest No. Previously Paid For | Present Extra | Rate | Addit. Fee | OR | Rate | Addit. Fee |
| Total | * Minus | ** | = | x \$25 = \$ | | | x \$50 = | \$ 0 |
| Indep. | * Minus | *** | = | x \$100 = \$ | | | x \$200 = | \$ 0 |
| <input type="checkbox"/> First Presentation of Multiple Dependent Claim | | | | + \$180 = \$ | | | + \$360 = | \$ 0 |
| | | | | | Total Addit. Fee | OR | Total Addit. Fee | \$ |

* If the entry in Col. 1 is less than the entry in Col. 2, write "O" in Col. 3,

** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: See 37 C.F.R. § 1.116.

(complete (c) or (d), as applicable)

- (c) ☒ No additional fee is required.

OR

- (d) ☐ Total additional fee required is \$ _____.

FEE PAYMENT

5. ☐ Attached is a check in the sum of \$ _____.
☐ Charge Account No. _____ the sum of \$ _____.
A duplicate of this transmittal is attached.

FEE DEFICIENCY

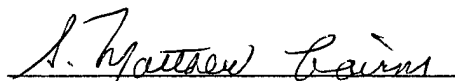
NOTE: Where there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the case. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. ☒ If any additional extension and/or fee is required, charge Account No. 18-1850.

AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 18-1850.

Respectfully submitted,


S. Matthew Cairns
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RESPONSE AFTER FINAL

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In response to the Official Action mailed on November 29, 2005, Applicants request entry of the following remarks.

Remarks begin on page 2 of this paper.